

U.S. Patent Application Serial No. 10/691,960  
Response filed August 31, 2005  
Reply to OA dated July 6, 2005

**AMENDMENT TO THE DRAWINGS:**

The attached sheets of replacement drawings include changes to Figs. 4, 6, 8 and 9. These sheets, which include Figs. 4, 6, 8 and 9, replace the original sheets including Figs. 4, 6, 8 and 9.

In Fig. 4, “mine circuit” has been amended to --main circuit--;

In Fig. 6, “vehcle” has been amended to --vehicle--; and

Figs. 8 and 9 have been labeled as “Prior Art”.

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### **REMARKS**

Claims 1 and 2 have been amended in order to more particularly point out, and distinctly claim the subject matter to which the applicant regards as his invention. The applicant respectfully submits that no new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated July 6, 2005.

The Examiner has acknowledged the applicant's claim for foreign priority based on the application filed in Japan on October 28, 2002, but notes that a certified copy of the priority document has not been filed. The applicant wishes to be entitled to the claim for foreign priority, and will file the certified copy of the priority document shortly.

The Examiner objects to Figs. 8 and 9 of the drawings as they are not marked as "Prior Art". The applicant submits herewith replacement sheets of drawings for Figures 8 and 9 with the "Prior Art" notation thereon.

Also, the applicant submits herewith replacement drawing sheets for Fig. 4 to change "mine circuit" to "main circuit" and for Fig. 6 to change "vehcle" to "vehicle".

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The applicant respectfully requests that such replacement sheets of drawings to Figures 4, 6, 8 and 9 be entered and approved by the Examiner, and that the outstanding objections to the drawings be withdrawn.

The Examiner objects to the Abstract because of informalities. The applicant respectfully submits herewith a substitute Abstract of the Disclosure, which is believed to avoid the Examiner's outstanding objections to the Abstract.

The applicant respectfully requests that the substitute Abstract of the Disclosure, filed herewith, be approved by the Examiner.

The Examiner objects to the specification, alleging various language informalities. The applicant has amended the specification in order to correct certain informalities therein, including those pointed out by the Examiner.

Accordingly, the withdrawal of the outstanding objections to the specification is in order, and is therefore respectfully solicited.

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Claims 1 and 2 are objected to by the Examiner because of alleged language informalities. As indicated above, claims 1 and 2 have been amended in order to correct certain informalities therein, including those pointed out by the Examiner. Accordingly, the withdrawal of the outstanding objections to claims 1 and 2 is in order, and is therefore respectfully solicited.

As to the merits of this case, claims 1, 2, 3, and 5 (as dependent upon claims 1, 2 and 3) are rejected under 35 U.S.C. §102(b) as being anticipated by Bohrer (U.S. 2002/0121399). The applicant respectfully requests reconsideration of this rejection.

The Examiner alleges that Bohrer teaches a hydraulically driven vehicle having a motor (16) driven by pressure oil from a pump (14) for driving the vehicle, wherein a maximum output set by a maximum angle of tilt of a swashplate of the pump or motor may be changed by an electronic control (22) under the effect of a selection means (36), and further teaches that a maximum output may be set by a control.

Further in the cited reference, a speed-adjustment device cooperates with a hydraulic pump and a hydraulic motor of a vehicle in order to limit the maximum traveling speed when the vehicle is in the highest gear of the vehicle gear box. The speed adjustment device does not appear to perform any function when gears of the gear box are in any of the lower gears. A controller to

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control operation of the hydraulic pump and/or hydraulic motor can be mechanical or electrical, including a microprocessor.

Bohrer mentions that the “maximum traveling speed” varies for different types of utility vehicles and in some countries the “maximum traveling speed” is set by law and the controller is set for the “maximum traveling speed” during manufacture of the utility vehicle or by service personnel following manufacture. A setting of the “maximum traveling speed” is not operator adjustable during operation of the vehicle by the operator. Also, controlling the “maximum traveling speed of the vehicle, when it is in its highest gear, does not improve the performance of the vehicle as in the applicant’s present invention.

In the applicant’s present invention, control of the maximum driving force is carried out by the operator, as the vehicle is being operated, in order to improve the performance of the vehicle in the working conditions, being encountered. Determining whether the vehicle is in a particular gear of the gear box is not a part of the control process.

In order to better distinguish the applicant’s present claimed invention over the cited prior art, claim 1 has been amended in order to include that the driving force is changeable by the operator, with the use of switching means (22), during operation of the vehicle in order to select the best driving force for the working conditions being encountered by the vehicle.

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In view of the above, since not all of the claimed elements, as now set forth in claim 1, are found in exactly the same situation and united in the same way to perform the identical function in Bohrer's apparatus, there can be no anticipation of the applicant's claimed invention, as now set forth in independent claim 1 (and claims 2, 3 and 5 which depend therefrom).

Accordingly, the withdrawal of the outstanding anticipation rejection under 35 U.S.C. §102(b) as being anticipated by Bohrer (U.S. 2002/0121399) is in order, and is therefore respectfully solicited.

Claims 4 and 5 (as dependent upon claim 4) are rejected under 35 U.S.C. §103(a) as being unpatentable over Bohrer. The applicant respectfully requests reconsideration of this rejection.

Regarding claim 4, claim 4 depends on claim 1; thus, the applicant's above comments are similarly applicable in traversing the rejection of claim 4.

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Regarding the rejection of claim 5, the Examiner does not comment on the reason for the rejection. However, the applicant submits that the cited reference does not teach or suggest a selective means for selecting whether or not the change of the hydraulic motor is executed. As such, a person of ordinary skill in the art would not have found the applicant's claimed invention, as now set forth in claim 1, from which claims 4 and 5 depend, obvious.

Accordingly, the withdrawal of the outstanding obviousness rejection under 35 U.S.C. §103(a) as being unpatentable over Bohrer is in order, and is therefore respectfully solicited.

In view of the aforementioned amendments and accompanying remarks, specification, drawings and claims, as amended, are in condition for allowance, which action, at an early date, is requested.

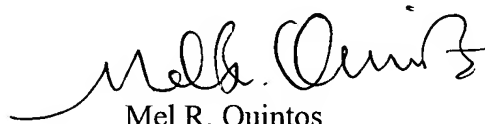
If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicant's undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

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In the event that this paper is not timely filed, the applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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PATENT TRADEMARK OFFICE

Enclosures: Replacement Sheets of Drawing (Figs. 4, 6, 8 and 9)  
Substitute Abstract of the Disclosure